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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re M.G., a Person Coming Under
the Juvenile Court Law.

B292062
(Los Angeles County
Super. Ct. No. DK20821)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

M.G.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los
Angeles County, Rashida A. Adams, Judge. Affirmed.

Janette Freeman Cochran, under appointment by the Court
of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, Kristine P. Miles,
Assistant County Counsel, Veronica Randazzo, Deputy County
Counsel, for Plaintiff and Respondent.

M.G., Sr., (father), the nonoffending father of now eight-year-old M.G., appeals from a juvenile court order terminating his parental rights, contending the court erred in refusing to apply the parental relationship exception to termination of parental rights. We affirm.

BACKGROUND

In January 2017, the Department of Children and Family Services (DCFS or the department) filed a Welfare and Institutions Code section 300¹ petition alleging that then six-year-old M.G. had been physically abused by his mother. (The mother is not a party to this appeal.) After removal, M.G.'s caregiver reported that he played aggressively with other children, had kicked and attempted to strangle the family dog, and was afraid at night. It was also reported that M.G. stated he wanted to be a policeman so he could shoot his mother's boyfriend, and had strangled the dog because the boyfriend had strangled his mother. After a Multidisciplinary Assessment Team assessment, M.G. ran into his bedroom, banged his head on the floor, and said he wanted to die.

Father's whereabouts had been unknown for some months, but he was eventually located and notified, and he appeared at the March 2017 adjudication hearing. The juvenile court found M.G. was a child described by section 300, subdivisions (a) and

¹ All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

(b)(1) due to domestic violence and physical abuse, and found father to be non-offending.

In May 2017, the juvenile court found that M.G. could not be placed with father because father's own mother, with whom he resided, refused to allow DCFS to assess her home. The court approved placement of M.G. with a foster family and ordered monitored visitation between father and M.G. for three hours three times per week, with discretion vested in the department to liberalize visitation.

M.G. participated in weekly therapeutic services with Uplift Family Services, and DCFS reported his caregiver provided care, supervision, and basic necessities, meeting his educational, physical, and emotional needs.

Father and the paternal grandmother visited M.G. approximately 10 times from April 2017 to October 2017. M.G. looked forward to and enjoyed the visits and seemed positively attached to his father and grandmother. They ate and played games during the visits, and M.G. stated that he loved his mother (who did not visit) and father and wanted to live with them.

In November and December 2017, the juvenile court terminated mother's family reunification services and ordered unmonitored visits between father and M.G. in the grandmother's home.

DCFS reported that father often rocked himself, punched the air, and smiled and stared for an extended period of time, and his mother would sometimes call out to him in order to prompt him to respond to questions. Dr. Chuck Leeb evaluated father and concluded he met the criteria for Autism Spectrum Disorder (ASD) and probably had an intellectual impairment. Dr. Leeb reported that M.G. also presented behaviors consistent with ASD

and probably suffered from an intellectual impairment. Dr. Leeb opined that the relationship of father and M.G. appeared to be “as comfortable a relationship as possible for someone with [their] diagnoses,” but father had no ability to parent M.G.

In April 2018, the juvenile court terminated father’s reunification services.

DCFS reported that M.G.’s caregivers, with whom he had resided for approximately 12 months, had developed a special connection with M.G., and M.G. was happy in their care, reciprocated their love and affection, and appeared to be attached to them. The caregivers wanted to adopt M.G. and his sister, who was also placed with them. M.G.’s therapist discharged him from mental health services because he no longer needed them, and his caregiver reported that he no longer exhibited behaviors requiring intervention. DCFS determined adoption was the appropriate plan for M.G. and recommended that parental rights be terminated.

Father consistently visited M.G. every two weeks throughout this period. The visits occurred at a mall, where they had lunch and father watched M.G. play.

At the August 14, 2018 permanency hearing, counsel for M.G. joined DCFS’s recommendation that parental rights be terminated. The juvenile court found that although father maintained regular visitation with M.G., their relationship failed to provide benefits that would outweigh the benefits of stability and permanence adoption could provide. The court found there was clear and convincing evidence that M.G. was generally and specifically adoptable, and no exception to adoption applied. It therefore terminated mother and father’s parental rights.

Father timely appealed.

DISCUSSION

Father contends the juvenile court erred in refusing to apply the beneficial parental relationship exception to terminating parental rights. We disagree.

Section 366.26 governs a juvenile court's selection and implementation of a permanent plan for a dependent child. Once reunification services have been terminated, “ ‘[f]amily preservation ceases to be of overriding concern’ ” and “ ‘the focus shifts from the parent's interest in reunification to the child's interest in permanency and stability.’ ” (*In re Richard C.* (1998) 68 Cal.App.4th 1191, 1195.) Section 366.26, subdivision (c)(1) provides that if the court finds by clear and convincing evidence that “it is likely the child will be adopted, the court shall terminate parental rights and order the child placed for adoption.” (§ 366.26, subd. (c)(1); *In re Autumn H.* (1994) 27 Cal.App.4th 567, 573 [“Adoption, where possible, is the permanent plan preferred by the Legislature”].) The statutory preference favors adoption unless the parent opposing termination can demonstrate an enumerated statutory exception applies. As pertinent here, the adoption preference may be overcome by showing that termination of parental rights would be “detrimental to the child” because the parent has “maintained regular visitation and contact with the child and the child would benefit from continuing the relationship.” (§ 366.26, subd. (c)(1)(B)(i).)

The “benefit” prong of this exception requires the parent to prove that his or her relationship with the child “promotes the well-being of the child to such a degree as to outweigh the well-being the child would gain in a permanent home with new, adoptive parents.” (*In re Marcelo B.* (2012) 209 Cal.App.4th 635,

643.) Even frequent and loving contact between a child and a parent is insufficient, by itself, to establish the significant parent-child relationship required under section 366.26, subdivision (c)(1)(B). (*In re Beatrice M.* (1994) 29 Cal.App.4th 1411, 1418-1419.) A “parental relationship is necessary for the exception to apply, not merely a friendly or familiar one,” because it “would make no sense to forgo adoption in order to preserve parental rights in the absence of a real parental relationship.” (*In re Jasmine D.* (2000) 78 Cal.App.4th 1339, 1350.)

The juvenile court “ ‘balances the strength and quality of the natural parent/child relationship in a tenuous placement against the security and the sense of belonging a new family would confer. If severing the natural parent/child relationship would deprive the child of a substantial, positive emotional attachment such that the child would be greatly harmed, the preference for adoption is overcome and the natural parent’s rights are not terminated.’ ” (*In re Derek W.* (1999) 73 Cal.App.4th 823, 827.) “The factors to be considered include: ‘(1) the age of the child, (2) the portion of the child’s life spent in the parent’s custody, (3) the positive or negative effect of interaction between the parent and the child, and (4) the child’s particular needs.’ ” (*In re Helen W.* (2007) 150 Cal.App.4th 71, 81.)

We review the juvenile court’s factual determination—whether a beneficial parent-child relationship exists—under the substantial evidence standard. (*In re K.P.* (2012) 203 Cal.App.4th 614, 622.) We review the court’s discretionary decision—whether the relationship constitutes a compelling reason for determining termination of parental rights would be detrimental to the child—under the abuse of discretion standard. (*Ibid.*)

Father argues he maintained regular visits with M.G. and had a well-bonded, positive relationship with him. M.G. enjoyed the visits, and stated he loved his “mom and dad.” And father had family support to assist with parenting M.G. He argues that M.G. would benefit from continued contact with his father.

The record reflects that father visited M.G. regularly, but regular and frequent visitation and loving contact does not establish a parental relationship.

Although M.G. had an emotional bond with father, and expressed love for and a desire to live with him, nothing in the record suggests father had formed a parent-child relationship with the child. For example, no evidence suggests father attended to M.G.’s physical care, nourishment, or medical needs, or assisted in managing his school or personal life. And no evidence suggests that the bond between M.G. and father, or the benefit of continuing the relationship, was sufficient to outweigh the child’s need for the stability that adoption would provide.

Therefore, the juvenile court was within its discretion to terminate father’s parental rights.

DISPOSITION

The juvenile court’s order is affirmed.

NOT TO BE PUBLISHED.

CHANEY, Acting P. J.

We concur:

BENDIX, J.

WEINGART, J.*

* Judge of the Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.